

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PHILLIP ELLIOT JONES,

Petitioner,

v.

CASE NO. 89-CV-72712<sup>1</sup>  
HONORABLE DENISE PAGE HOOD

TEKLA MILLER,

Respondent.

ORDER DENYING WITHOUT PREJUDICE  
MOTION FOR RELIEF FROM JUDGMENT  
AND  
TRANSFERRING MOTION TO THE SIXTH CIRCUIT COURT OF  
APPEALS AS A SUCCESSIVE HABEAS PETITION

This matter is now before the Court on Petitioner's Motion for Relief from Judgment Denying Habeas Relief. **(ECF No. 108)** On February 22, 1991, an Opinion and Order denying the Petition for Writ of Habeas Corpus was filed, along with Judgment. **(ECF Nos. 51, 52)** Petitioner has since filed several post-judgment motions. On August 22, 2017, the Sixth Circuit Court of Appeals entered an Order denying Petitioner's latest successive motion. **(ECF No. 107)**. For the reasons set forth below, the Court must transfer this motion to the Sixth Circuit Court of Appeals as another successive motion.

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<sup>1</sup> The case was originally assigned to U.S. District Judge George E. Woods.

The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), codified at 28 U.S.C. § 2241 *et. seq.*, amended 28 U.S.C. §§ 2244, 2253, and 2254, governs habeas corpus proceedings in federal courts. Pursuant to those amendments, an individual seeking to file a “second or successive” habeas petition must ask the appropriate court of appeals for an order directing the district court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998); *In re Wilson*, 142 F.3d 939, 940 (6th Cir. 1998). This requirement transfers to the court of appeals a screening function which the district court previously performed. *Felker v. Turpin*, 518 U.S. 651, 664 (1996). The Sixth Circuit requires a successive § 2255 motion to be transferred to the Sixth Circuit Court of Appeals. *In re Nailor*, 487 F.3d 1018, 1022-23 (6th Cir. 2007). Any Rule 60(b) motion is considered a second or successive § 2255 motion which must be transferred to the Sixth Circuit Court of Appeals for certification. *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997); *Gonzales v. Crosby*, 545 U.S. 524, 531 (2005).

Accordingly,

IT IS ORDERED that Petitioner’s Motion for Relief from Judgment is DENIED without prejudice. **(ECF No. 108)**

IT IS FURTHER ORDERED that the Clerk of the Court **TRANSFER** this Motion for Relief from Judgment to the Sixth Circuit Court of Appeals.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: August 28, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 28, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager